

ASSEMBLY, No. 991

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

“County Urban Agricultural Development Zone Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT establishing urban agricultural development zones and
2 supplementing Title 54 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "County
8 Urban Agricultural Development Zone Act."

9

10 2. As used in this act:

11 "Agricultural or horticultural use" means farming or horticulture
12 in all their respective branches including, but not limited to, the
13 cultivation and tillage of soil, the production, cultivation, growing,
14 and harvesting of any agricultural or horticultural products, the
15 raising of domestic livestock, bees, fur-bearing animals, dairy-
16 producing animals, and poultry, agricultural or horticultural
17 education, the sale of products by retail or farm stands, and any
18 practices performed by a farmer or on a farm in conjunction with
19 farming operations.

20 "Assessor" means the municipal tax assessor appointed pursuant
21 to the provisions of chapter 9 of Title 40A of the New Jersey
22 Statutes.

23 "Urban agricultural development zone" means an urban area of a
24 county encompassing qualified real property that has been
25 designated by the governing body of the county as part of an urban
26 agricultural development zone pursuant to section 3 of this act.

27 "Qualified real property" means a parcel of real property less
28 than five acres in size that is abandoned, underutilized, or vacant,
29 including, but not limited to, an abandoned, underutilized, or vacant
30 plot of land or a building, which can be used for agricultural or
31 horticultural purposes to produce agricultural or horticultural
32 products through aquaculture, aquaponics, or hydroponics, by roof-
33 top farming, or through the use of greenhouses, high tunnels, or
34 other structures beneficial for the production of agricultural or
35 horticultural products.

36

37 3. a. The governing body of a county shall, in consultation
38 with the county agriculture board and the Department of
39 Agriculture, identify areas in the county that are urban and
40 appropriate to be designated as urban agricultural development
41 zones because they encompass one or more qualified real properties
42 within the urban agricultural development zone. The governing
43 body of the county shall by ordinance or resolution, as appropriate,
44 designate urban agricultural development zones and list the
45 qualified real properties within the designated urban agricultural
46 development zones and the municipalities in which the qualified
47 real properties are located. The designation of an urban agricultural
48 development zones shall be consistent with the permitted use of

1 those properties pursuant to the "Municipal Land Use Law,"
2 P.L.1975, c.291 (C.40:55D-1 et seq.).

3 b. Prior to designating any property as a qualified real property,
4 the county shall ensure that the property can be safely used for the
5 production of agricultural or horticultural products by the testing of
6 the soil and the water at a certified laboratory to certify its
7 permissible use for agricultural or horticultural production. The
8 county shall apply to the Department of Environmental Protection,
9 the Department of Agriculture, or the Department of Health for
10 certification necessary to use the real property for the production of
11 agricultural or horticultural products.

12 c. The Department of Environmental Protection, the
13 Department of Agriculture, and the Department of Health,
14 respectively, shall adopt as necessary, pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
16 1 et seq.), rules and regulations establishing the certification process
17 and procedures for compliance with the provisions of subsection b.
18 of this section.

19

20 4. a. The governing body of a municipality in which a county
21 has designated an urban agricultural development zone shall, by
22 ordinance, provide for an exemption from real property taxes for
23 qualified real property in the designated urban agricultural
24 development zone.

25 b. The ordinance shall include:

26 (1) A property tax exemption term of ten years except that a tax
27 exemption may be extended up to fifteen years, at the municipality's
28 option, if the use of the real property for agricultural or horticultural
29 purposes is determined to be dependent on the tax exemption and if
30 its use for such purposes is sufficiently beneficial to the
31 municipality and its residents to merit an extension;

32 (2) The application procedure for an exemption authorized
33 pursuant to this act;

34 (3) The method of computing payments in lieu of real property
35 taxes pursuant to subsection b. of section 6 of this act;

36 (4) An approval method for exemption applications by the
37 assessor or by ordinance on a per application basis; and

38 (5) A requirement that

39 (a) the qualified real property within the urban agricultural
40 development zone shall be dedicated to use for agricultural or
41 horticultural purposes,

42 (b) the owner of the property enter into a memorandum of
43 agreement or administrative consent order pursuant to subsection c.
44 of this section with the Department of Agriculture concerning the
45 use of the qualified real property for agricultural or horticultural
46 use, and,

47 (c) the Department of Environmental Protection, Department of
48 Agriculture, and the Department of Health, as applicable, have

1 determined that the qualified real property is suitable for
2 agricultural or horticultural use.

3 c. The Department of Agriculture and the owner of qualified
4 real property shall enter into a memorandum of agreement or
5 administrative consent order required to be submitted pursuant to
6 paragraph (5) of subsection b. of this section to provide that the
7 owner of the property shall maintain the use of the qualified real
8 property in the urban agricultural development zone for agricultural
9 or horticultural purposes during the time period for which the real
10 property tax exemption is given.

11

12 5. a. No property tax exemption shall be granted pursuant to
13 this act, except upon written application filed with the assessor of
14 the taxing district wherein the qualified real property is located, and
15 approved by the governing body by resolution or ordinance or by
16 the assessor, as required by the enabling ordinance. An application
17 for an exemption shall be on a form prescribed by the Director of
18 the Division of Taxation, in the Department of the Treasury, and
19 provided for the use of applicants by the governing body of the
20 municipality constituting the taxing district.

21 b. An application for an exemption may be approved by a
22 governing body if the application is consistent with the provisions
23 of the enabling ordinance. A governing body shall not grant an
24 exemption unless the owner of the property enters into a
25 memorandum of agreement or administrative consent order
26 pursuant to subsection c. of section 4 of this act. An exemption
27 shall take effect upon the approval by the governing body and shall
28 be recorded and made a permanent part of the official tax records of
29 the taxing district, which record shall contain a notice of the
30 termination date of the exemption. The owner of the property shall
31 deliver a copy of the approved exemption application to the
32 Division of Local Government Services in the Department of
33 Community Affairs.

34

35 6. a. Each approved property tax exemption shall be evidenced
36 by a financial agreement between the municipality and the
37 applicant. The financial agreement shall be prepared by the
38 applicant and shall be consistent with the requirements in the
39 enabling ordinance. The agreement shall provide for the applicant
40 to annually pay to the municipality an amount in lieu of real
41 property taxes, to be computed pursuant to subsection b. of this
42 section. With the approval of the governing body, the agreement
43 may be assigned to a subsequent owner of the qualified property.

44 b. Payments in lieu of real property taxes shall be computed as
45 a portion of the real property taxes otherwise due, according to the
46 following schedule:

- 1 (1) In the first tax year following execution of a memorandum
2 of agreement or administrative consent order, no payment in lieu of
3 taxes otherwise due;
- 4 (2) In the second tax year following execution of a
5 memorandum of agreement or administrative consent order, an
6 amount not less than 10% of taxes otherwise due;
- 7 (3) In the third tax year following execution of a memorandum
8 of agreement or administrative consent order, an amount not less
9 than 20% of taxes otherwise due;
- 10 (4) In the fourth tax year following execution of a memorandum
11 of agreement or administrative consent order, an amount not less
12 than 30% of taxes otherwise due;
- 13 (5) In the fifth tax year following execution of a memorandum
14 of agreement or administrative consent order, an amount not less
15 than 40% of taxes otherwise due;
- 16 (6) In the sixth tax year following execution of a memorandum
17 of agreement or administrative consent order and all the subsequent
18 tax years thereafter until the tax year in which the exemption
19 expires, an amount not less than 50% of the taxes otherwise due;
- 20 (7) In the tax year in which the exemption shall expire, the full
21 amount of the assessed real property taxes, taking into account the
22 value of the real property in its current use, shall be due.
- 23 c. For the purposes of this section, the amount of "taxes
24 otherwise due" shall be determined by using the assessed valuation
25 of the qualified real property in the urban agricultural development
26 zone at the time of the approval by the assessor of the exemption,
27 regardless of any improvement made to the qualified real property
28 thereafter and as if the designation of the urban agricultural
29 development zone had not occurred.
- 30 d. Notwithstanding any other provision in this act, if at any
31 time the governing body of a municipality finds that a memorandum
32 of agreement or administrative consent order providing for the use
33 of the property for agricultural or horticultural use has been
34 terminated, or that a condition imposed by ordinance adopted
35 pursuant to section 4 of this act is not met, the period of the
36 property tax exemption shall end.
- 37
- 38 7. The payments required pursuant to section 6 of this act shall
39 be made in quarterly installments according to the same schedule as
40 real property taxes are due and payable. Failure to make the
41 payments shall result in the termination of the exemption. In
42 addition to the remedy set forth herein, the requirements imposed
43 pursuant to section 6 of this act shall be enforced in the same
44 manner as is provided for real property taxes pursuant to Title 54 of
45 the Revised Statutes.
- 46
- 47 8. a. Receipts of retail sales of agricultural or horticultural
48 products produced on qualified real property in an urban

1 agricultural development zone, except retail sales of alcoholic
2 beverages defined in the "Alcoholic beverage tax law," R.S.54:41-1
3 et seq. and of cigarettes as defined in the "Cigarette Tax Act,"
4 P.L.1948, c.65 (C.54:40A-1 et seq.), made by a seller certified
5 pursuant to subsection b. of this section from a qualified real
6 property in an urban agricultural development zone, shall be exempt
7 to the extent of 50% of the tax imposed under the "Sales and Use
8 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

9 b. A seller of agricultural or horticultural products produced on
10 qualified real property in an urban agricultural development zone,
11 where the seller is the owner or operator of a qualified real property
12 in an urban agricultural development zone, may apply to the
13 Director of the Division of Taxation in the Department of the
14 Treasury for certification pursuant to this section. The director
15 shall certify a seller if the director finds that:

16 (1) the seller owns or leases and regularly produces agricultural
17 or horticultural products on qualified real property in an urban
18 agricultural development zone for the purpose of making retail
19 sales, that items are regularly exhibited and offered for retail sale at
20 that location, and that the place of business is not utilized primarily
21 for the purpose of catalogue or mail order sales. The certification
22 under this section shall remain in effect during the time the
23 qualified real property maintains its designation as such. However,
24 the director may revoke a certification granted pursuant to this
25 section if the director determines that the seller no longer complies
26 with the provisions of this section; and

27 (2) the qualified real property is used for the purposes for which
28 it was designated as a qualified real property pursuant to section 3
29 of this act.

30 c. The Director of the Division of Taxation in the Department
31 of the Treasury shall promulgate rules and regulations as may be
32 necessary to effectuate the provisions of this section.

33 d. To be eligible to provide a sales tax exemption under this
34 section a seller shall demonstrate to the satisfaction of the Director
35 of the Division of Taxation that the seller will make available fresh
36 produce, plants, or other farm products to the residents of the
37 municipality.

38 e. A seller shall annually certify to the Director of the Division
39 of Taxation that it qualifies as a certified seller under subsection b.
40 of this section. A seller who fails to supply the annual certification
41 or data in the certification shall be subject to a civil penalty of up to
42 ten times the benefits received. The penalty shall be collected in a
43 civil action in a summary proceeding pursuant to the "Penalty
44 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
45 The Superior Court and the municipal court shall have jurisdiction
46 to enforce the provisions of the "Penalty Enforcement Law of 1999"
47 in connection with this section.

1 9. This act shall take effect immediately.

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STATEMENT

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6 This bill directs the governing body of the county, in
7 consultation with the county agriculture board and the Department
8 of Agriculture, to establish urban agricultural development zones in
9 urban areas of the county and designate within municipalities within
10 those zones qualified real property to receive property tax
11 exemptions. "Qualified real property" is defined under the bill as
12 any parcel of real property less than five acres in size that is
13 abandoned, underutilized, or vacant, including, but not necessarily
14 limited to, an abandoned, underutilized, or vacant plot of land or a
15 building, which can be used for agricultural or horticultural
16 purposes to produce agricultural or horticultural products through
17 aquaculture, aquaponics, or hydroponics, by roof-top farming, or
18 through the use of greenhouses, high tunnels, or other structures
19 beneficial for the production of agricultural or horticultural
20 products.

21 The bill also establishes requirements for municipalities and
22 property owners to enter into a financial agreement for the schedule
23 of payments in lieu of taxes established in the bill.

24 Finally, the bill provides for a 50% reduction of sales tax
25 collected from the sale of agricultural or horticultural products
26 produced on the qualified real property.